

### Egbert Benson, Associate Justice of the New York Supreme Court, 1794-1801

[Written by James Kent, Chancellor of New York, who studied in Benson's law office. It was first published in Benjamin F. Thompson's *History of Long Island*, published in 1839].

Judge Benson was born in the city of New York, June 21, 1746, of respectable Dutch parents, and was educated at Kings (now Columbia) college where he graduated in 1765. He was one of those sound classical scholars, for the formation of which, that learned seminary always has been, and still is, most justly distinguished. His taste for classical literature never forsook him, even during the strength and vigor of his age, and amidst the arduousness of official duties. His legal education was acquired in the office of John Morin Scott, one of the band of deep-read and thorough lawyers of the old school, who were an ornament to the city at the commencement of the Revolution. When he came to the bar, there were very few, if any, better instructed in the ancient and modern learning of the English common law. To great quickness and acuteness of mind, and profound discernment of character, he added much deliberation and candor. He was a master of order and method in business. If he was not the first, he was one of the first proficient in the science of pleading; and his equal does not exist at the present day. But, though a strict technical lawyer, he did not cease to penetrate the depths of the science, and rest himself on fundamental principles. He was more distinguished than any man among us, Hamilton alone excepted, for going, in all researches, to the reason and grounds of the law, and placing his opinions on what he deemed to be solid and elementary principles. His morals and manners were pure and chaste. He was liberal and catholic in his sentiments, without the smallest tincture of fanaticism or affectation of austerity; and nothing could weaken his faith or disturb his tranquillity, though he had to pass through the storms of tempestuous age, in which the French revolution, and the daring speculations which accompanied it, attacked equally the foundations of religious belief and the best institutions of social life.

Mr Benson commenced the practice of law at Red Hook, Dutchess County, in 1772; but before he had time to enter largely into business, or to acquire much more than a scanty temporary provision for his support, the American war broke out, and raised him at once to an elevated scene of action. Here his abilities and spirit were brought to a test, and proved to be of sterling value. He was present at and guided the earliest meetings in Dutchess County, preparatory to a more organized resistance to the claims of the British government. He took the lead in all the whig measures adopted in that county; a more zealous and determined patriot, or one more thoroughly master of the grounds of the great national contest, did not exist. It followed, of course, that his knowledge of the law and of the enlightened principles of civil liberty, and his practical and business talents, would carry him forward rapidly to places of high public trust. He was accordingly appointed first attorney-general of this State by ordinance of the convention of the 8<sup>th</sup> of May, 1777 and this most painful and responsible office he discharged with the utmost zeal, ability and integrity during the whole period of the American war, and down to the spring of 1787, when he voluntarily resigned it, on assuming other public duties. He was a member of the first legislative assembly of this state, elected in 1777. His name in the public opinion seemed to be identified with wisdom, patriotism and integrity. He drafted almost every important bill that passed the assembly during the war and it is a matter of public notoriety with those persons whose memories can date back to that period, that his name truly merits this transcendent eulogy. During the war, he was the most confidential and efficient adviser of the elder Governor Clinton; and it is well known that no governor had greater difficulties to contend with, as such, or surmounted them with better discretion and firmness. He was importuned and taxed with a perplexing variety of public concerns during the most busy and perilous period of our revolutionary history. He was president of the board of commissioners in Dutchess County for detecting and defeating conspiracies, and it was under this authority that the board, in July, 1778, sent the Hon. William Smith, the historian of New York, into the British lines, who did not fail to complain severely of the stern and inflexible manner in which the chairman of the commissioners had executed the power. Amidst the various and important duties of his several trusts, he was brought in contact, and formed friendships with, that host of eminent men, that then swayed the councils of the state. A common sympathy, as well as a common interest, is excited and felt at times of public calamity, and leads to generous and disinterested actions. Mutual respect and strong friendships were created and subsisted between Mr. Benson and Governor Clinton, General Schuyler, Chief Justice Jay, Chancellor Livingston, Judge Hobart, James Duane, Alexander McDougal, Alexander Hamilton, William Duer, and a roll of other distinguished patriots, who adorn the page of revolutionary history; and we need no better evidence of the great and useful talents of Mr. Benson, than to know the fact, that he was admired and beloved, and his counsels and society anxiously sought after, by all the leading men of the state during the best and brightest period of our domestic history. He took a zealous part in the adoption of the Constitution of the United States, on which, as he uniformly thought and declared, he rested all his hopes of American liberty, safety and glory. No

person could be more devoted to its success. In 1789, he was elected one of the six representatives from this state to the first congress, in which he continued four years. He drew the bills organizing the executive department of the government, and he labored incessantly to further and sustain the measures that distinguished the glorious and unparalleled administration of Washington. In this situation he had the happiness to add largely to the number of his particular friends and to associated on cordial and confidential terms with such men as George Cabot, Fisher Ames, Oliver Ellsworth, Rufus King, William Patterson, George Clymer and others of the same brilliant stamp, with whom there was an equal interchange of respect and esteem. As for Hamilton, he never thought or spoke of him without expressing his highest admiration of his talents, and reverence for his patriotism. Of Fisher Ames he used to say that he thought him the most perfect man he ever knew, and that he had the purity and wisdom of a seraph.

In 1794 Mr. Benson was called into judicial life, and appointed a judge of the supreme court of this state; in which situation he remained several years, and fulfilled all its duties with the utmost precision, diligence, and fidelity. He did more to reform the practice of that court than any member of it ever did before, or ever did since. The object of the rules of practice which he drew, was to save useless time and trouble, and facilitate business. He resigned in 1801, on receiving the appointment of chief judge in the second circuit, under a new arrangement of the circuit courts of the United States; but was deprived of the office by a repeal in the following year of the statute creating the new courts. During the remainder of his life, Judge Benson was principally confined to the occasional calls of professional duty, and to short assumptions of places of public trust. He was a regent of the university from 1787 to 1802. He removed many years ago, to Jamaica, where he continued during the rest of his life, boarding in the family of Mr. William Puntine. He continued to be blessed with a protracted old age, "exempt from scorn or crime," and that "gilded in modest innocence away," while the circle of his old friends and acquaintances became gradually more and more contracted, as his descending sun was casting its lengthened shadows before him. He used to amuse himself with the publication, now and then, of short tracts on what he deemed the errors and follies of the times; for he had a quick and keen perception of the false and ridiculous, and the flame of genuine patriotism never ceased to live and glow in his bosom, of which his criticism on the *British Rule of 1756*, and his *Vindication of the Captors of Andre*, may be cited as examples. His writings never received the attention which the good contained under a forbidding exterior demanded; for by his constant efforts to attain sententious brevity, he became oftentimes obscure. This great and good man lived to survive all his contemporaries, and seems to have died almost unknown and forgotten by the profession which he once so greatly adorned. He was happy, however, to have preserved his mental faculties, in respect of all ancient recollections and impressions, perfectly unimpaired to the last; and died as he had lived, in the most serene tranquillity, with entire resignation to the will of God, and in humble reliance on those means of salvation upon which he placed his hope from early life.

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Source:

Second Circuit Committee on the Bicentennial of the United States Constitution.  
*Egbert Benson: First Chief Judge of the Second Circuit (1801-1802)*. New York, 1987.